



PUBLIC NOTICE

Federal Communications Commission
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**DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS OF
GLOBAL CAPACITY GROUP, INC. AND GLOBAL CAPACITY DIRECT, LLC
BY GC PIVOTAL, LLC**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 11-64

Comments Due: April 28, 2011
Reply Comments Due: May 5, 2011

On April 5, 2011, Global Capacity Group, Inc. (Global Group), Global Capacity Direct, LLC (Global Direct) (together, Global Capacity), and GC Pivotal, LLC (GC Pivotal), a wholly owned subsidiary of Pivotal Global Capacity, LLC (collectively, Applicants), filed an application pursuant to section 63.03 of the Commission's rules¹ seeking approval to transfer assets from Global Capacity to GC Pivotal.

Global Group, a Texas corporation, is authorized to provide competitive telecommunications services in multiple states.² Global Direct, a Delaware limited liability company, is also authorized to provide competitive telecommunications services in multiple states.³ Global Group and Global Direct are owned by Capital Growth Systems, Inc., a Florida corporation that operates as a non-operating holding company. On July 23, 2010, Global Capacity, its affiliates, and parent filed for bankruptcy relief pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214. Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications. Applicants filed supplements to their domestic section 214 application on April 8 and 12, 2011.

² Global Group is authorized to provide service in Alabama, Arkansas, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.

³ Global Direct is authorized to provide service in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wisconsin.

the District of Delaware (Bankruptcy Court).⁴ On January 26, 2011, the Bankruptcy Court approved the sale of substantially all of the assets of Global Capacity, including customers, to GC Pivotal.⁵

GC Pivotal, a Delaware limited liability company, is wholly owned by Pivotal Global Capacity, LLC, an Arizona limited liability company. FFN Investments, LLC (FFN), an Arizona limited liability company, owns 100 percent of Pivotal Global Capacity, LLC. The Najafi 2006 Irrevocable Trust and the F. Francis Najafi Family Trust, both Arizona entities, own 60 percent and 40 percent, respectively, of FFN. Richard Garner, a U.S. citizen, is the trustee, and F. Francis Najafi, a U.S. citizen, is the beneficiary of the Najafi 2006 Irrevocable Trust. The beneficiaries of the F. Francis Najafi Family Trust are Mr. Najafi's minor-age children. Applicants state that the 40 percent ownership interest of the F. Francis Najafi Family Trust reflects a 30 percent interest held directly in FFN, and a 10 percent interest held indirectly in FFN through Pivotal Capital Corporation, an Arizona corporation. Applicants state that GC Pivotal does not provide telecommunications services and that its parent entities and related companies do not provide telecommunications services and have no telecommunications affiliates.⁶

Applicants assert that the proposed transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules and that a grant of the application will serve the public interest, convenience, and necessity.⁷

Domestic Section 214 Application Filed for the Acquisition of Assets of Global Capacity Group, Inc. and Global Capacity Direct, LLC by GC Pivotal, LLC, WC Docket No. 11-64 (filed Apr. 5, 2011).

GENERAL INFORMATION

The transfer of assets identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before April 28, 2011**, and reply comments **on or before May 5, 2011**. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.⁸ Comments must be filed electronically using (1) the Commission's Electronic Comment Filing System (ECFS) or (2) the Federal Government's e-Rulemaking Portal. *See* 47 C.F.R. § 63.03(a) ("All comments on streamlined applications shall be filed electronically . . ."); *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

⁴ *Global Capacity Holdco, LLC, et. al.*, Case No. 10-12302 (PJW) (Bankr. D. Del. 2010).

⁵ *Global Capacity Holdco, LLC, at al.*, Case No. 10-12302 (PJW), Order Approving (1) Bid of Pivotal Global Capacity, LLC or Subsidiary as the Highest and Best Sale Qualifying Bid for the Purchase of Substantially All of Debtors' Assets Under and in Conjunction with its Plan of Reorganization; and (2) Consummation of the Sale Transaction with Pivotal Global Capacity, LLC or its Subsidiary, GC Pivotal, LLC (Bank. D. Del. Jan. 26, 2011).

⁶ Applicants state that, upon closing of the proposed transaction, GC Pivotal will change its name to Global Capacity, LLC. On May 21, 2010, Global Capacity and GC Pivotal filed an application seeking Commission consent to assign the domestic section 214 authority and telecommunications assets held by Global Capacity to GC Pivotal. Due to the bankruptcy, the parties withdrew that application on August 11, 2010. Letter from Jarrett S. Taubman, Counsel to GC Pivotal, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-122 (filed Aug. 11, 2010).

⁷ 47 C.F.R. § 63.03(b)(2)(i).

⁸ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- Comments may be filed electronically using the Internet by accessing the ECFS, <http://www.fcc.gov/cgb/ecfs/>, or the Federal e-Rulemaking Portal, <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

In addition, e-mail one copy of each pleading to each of the following:

- 1) The Commission's duplicating contractor, Best Copy and Printing, Inc., fcc@bcpiweb.com; phone: (202) 488-5300; fax: (202) 488-5563;
- 2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, tracey.wilson-parker@fcc.gov;
- 3) Jodie May, Competition Policy Division, Wireline Competition Bureau, jodie.may@fcc.gov;
- 4) David Krech, Policy Division, International Bureau, david.krech@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; telephone: (202) 488-5300; fax: (202) 488-5563; e-mail: fcc@bcpiweb.com; url: www.bcpiweb.com.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, please contact Tracey Wilson at (202) 418-1394 or Jodie May at (202) 418-0913.

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